IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

CIRBA INC. (d/b/a DENSIFY)
and CIRBA IP, INC.,

Plaintiffs,	C.A. No. 19-742-LPS
v.	
VMWARE, INC.,	
Defendant.	

[PROPOSED] STIPULATION AND ORDER OF DISMISSAL WITH PREJUDICE

Cirba Inc. (d/b/a Densify) and Cirba IP, Inc. (collectively, "Densify") and VMware, Inc.

("VMware"), stipulate and the Court orders under Rule 41(a)(2) of the Federal Rules of Civil

Procedure as follows:[1]

Densify dismisses with prejudice, and the Court orders dismissal with prejudice of, any

and all of Densify's claims against VMware for infringement of claims 2, 4, 5, 11, 15, 16, and 19

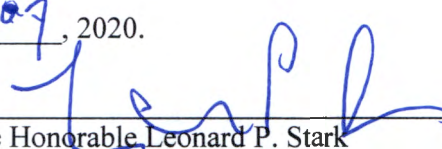of U.S. Patent No. 9,654,367 under 35 U.S.C. § 271;

VMware dismisses with prejudice, and the Court orders dismissal with prejudice of,

VMware's defense and counterclaim against [Densify proposes: Densify] [VMware proposes:

Cirba IP, Inc.] that claims 1, 9, 13, and 17 of U.S. Patent No. 9,654,367 are invalid under 35

U.S.C. §§ 102 and 103 based on the following references either alone, or in combination with

each other—vCenter Operations 1.0; vCenter Operations Standard Evaluator's Guide; U.S. Patent

Appl. Pub. No. 2011/0161858 ("Barber"); U.S. Patent Appl. Pub. No. 2006/0277206 ("Bailey");

U.S. Patent No. 6,810,367 ("Barnard"); U.S. Patent Appl. Pub. No. 2009/237404 ("Cannon");

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[1] This Stipulation and Order do not address or otherwise affect VMware's Counterclaims
1-4, filed August 20, 2010 (D.I. 150), which the Court severed (D.I. 194).

U.S. Patent Appl. Pub. No. 2013/0007760 ("O'Sullivan"); U.S. Patent Appl. Pub. No. 2011/0261055 ("Wong"); and "Akorri BalancePoint: End-to-End Visibility Across Virtualized Servers and Dell Equallogic iSCSI SANs"—or under 35 U.S.C. § 112, ¶ 1.

VMware dismisses with prejudice, and the Court orders dismissal with prejudice of, VMware's defense and counterclaim against [Densify proposes: Densify] [VMware proposes: Cirba IP, Inc.] that claims 3 and 7 of U.S. Patent No. 8,209,687 are invalid under 35 U.S.C. §§ 102 and 103 based on the following references either alone, or in combination with Virtual Center 2 or each other —"A Quantitative and Analytical Approach to Server Consolidation," by Andrew Hillier; "Policy Driven Heterogeneous Resource Co-Allocation with Gangmatching," by Rajesh Raman, Miron Livny, and Marvin Solomon; U.S. Patent No. 8,347,297 ("Mateo"); U.S. Patent No. 8,667,500 ("Ji"); U.S. Patent No. 8,875,266 ("Chambers"); and U.S. Patent Appl. Pub. No. 2007/0271560 ("Wahlert").

IT IS SO ORDERED this _____ day of _____, 2020.

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The Honorable Leonard P. Stark
Chief Judge, United States District Court